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09/903,390	07/09/2001	Dean Furbush	09857-058001	9348
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EXAMINER SUBRAMANIAN, NARAYANSWAMY				
ART UNIT		PAPER NUMBER		
3695				
NOTIFICATION DATE		DELIVERY MODE		
06/12/2009		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

# Office Action Summary

## Application No.

09/903,390

## Applicant(s)

FURBUSH ET AL.

## Examiner

Narayanswamy Subramanian

## Art Unit

3695

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No./Mail Date: \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This office action is in response to applicant's communication of March 26, 2009. Amendments to claims 1, 4, 12 and 17 have been entered. The rejections made under 35 USC 112, second paragraph in the last office action are withdrawn in view of the amendments. Claims 1-21 are pending and have been examined. The rejections and response to arguments are stated below. Applicants are requested to note the Examiner's new art unit number (**AU 3695**) in their reply to this office action.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Independent claims 1, 12 and 17 recite the limitation "to determine the type of directed order that the quoting market participant accepts". It is not clear what the Applicants mean by the limitation "type of directed order". Does the "type" mean "buy or sell order". Or does it mean "market order or limit order". Or does it mean "liability or non-liability order". Or does the "type" refer to some other order type. In view of these ambiguities the scope of the claim is unclear. Dependent claims are rejected by way of dependency on a rejected claim.

Claim 1 also recites the limitation "non- liability order, for negotiation in accordance with how the determined quoting market participant chooses to receive directed orders based on the profile". It is not clear what the Applicants mean by this

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limitation. In this claim it is not clear if “the market participant” and the “the quoting market participant” are the same parties to the transaction. Dependent claims are rejected by way of dependency on a rejected claim.

Appropriate correction is required. The rejections given below are interpreted in light of these 112, second paragraph rejections.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ketchum et al. (US Patent 7,181,424 B1) in view of NASD Rulemaking Reference (Reference AV in IDS of October 19, 2007).

Claims 1, 12 and 17, discloses a method for trading of securities comprising a storage system storing profiles of quoting market participants (See the entire disclosure of Ketchum especially Figures 1-2B, Column 2 line 46 – Column 4 line 62, the order parameters are interpreted to include profiles of quoting market participants); and a server computer system coupled to a network and configured to receive a directed order from a computer system (See the entire disclosure of Ketchum especially Figures 1-2B, 4-item 66, Column 2 line 46 – Column 4 line 62; determine the market participant that the order is directed to (See the entire disclosure of Ketchum especially Figure 6, a directed order implies this feature); access a stored profile from the system for the determined, quoting

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market participant, to determine the type of directed order that the quoting market participant accepts, and send the order, as a liability, for execution against their quote or non- liability order, for negotiation in accordance with how the determined quoting market participant chooses to receive directed orders based on the profile (See the entire disclosure of Ketchum especially Column 7 lines 29-35, 56-62). A system for trading of securities with a computer system and a computer program product for trading of securities by performing the steps of the claimed method are implied by the disclosure of Ketchum. In the alternative the features of send the order, as a liability, for execution against their quote or non- liability order, for negotiation in accordance with how the determined quoting market participant chooses to receive directed orders is also taught by the AV reference (See Reference AV Pages 12-43). The motivation to combine the teachings of the AVE reference with the disclosure of Ketchum is that it will provide increased liquidity to the traded securities and better prices for the investors.

Claim 4, the feature of system of claim 1 further comprising a client station for entering non-directed orders that are orders for a security that are not sent/routed to a particular quoting market participant is implied by the disclosure of Reference AV. In the alternative this feature is old and well known in the electronic trading environment. Having a client station for entering non-directed order makes the process of entering orders easier and more efficient.

Claims 2-3, 5-11, 13-16, and 18-21, the features in these claims are taught by the disclosure of Reference AV.

***Response to Arguments***

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6. Applicant's arguments with respect to pending claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure are listed on the enclosed PTO-892.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Narayanswamy Subramanian whose telephone number is (571) 272-6751. The examiner can normally be reached Monday-Thursday from 8:30 AM to 7:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles R. Kyle can be reached at (571) 272-6746. The fax number for Formal or Official faxes and Draft to the Patent Office is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PMR or Public PAIR. Status information for unpublished applications is available through Private PMR only. For more information about the PMR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Narayanswamy Subramanian/  
Primary Examiner  
Art Unit 3695

May 26, 2009